

### REMARKS

Applicant requests the cancellation of original claims 1 and 7 and the entry of new claims 14-30. Support for new claim 14 can be found, *e.g.*, on page 2, lines 21-24, and page 3, lines 3-11. Support for new claim 15 can be found, *e.g.*, on page 8, lines 1-6. Support for new claim 16 can be found, *e.g.*, on page 1, lines 14-20, and page 3, lines 3-6. Support for new claim 17 can be found, *e.g.*, on page 7, lines 6-7. Support for new claims 18, 19, 23, and 24 can be found, *e.g.*, on page 3, line 31; in the table on page 18; and on page 20 in the first table. Support for new claim 20 can be found, *e.g.*, on page 6, lines 29-30. Support for new claim 21 can be found, *e.g.*, on page 8, lines 1-5. Support for new claim 22 can be found, *e.g.*, on page 1, lines 14-20; page 3, lines 3-6; page 6, lines 29-30; and page 7, lines 19-22. Support for new claim 25 can be found, *e.g.*, on page 2, lines 21-30; page 3, lines 3-5; and page 12, lines 14-17. Support for new claim 26 can be found, *e.g.*, on page 1, lines 14-20; page 3, lines 3-6; page 7, lines 19-22; and page 12, lines 14-17. Support for new claim 27 can be found, *e.g.*, on pages 11-12, lines 24-3; and in the first table on page 20. Support for new claims 28-30 can be found, *e.g.*, on page 2, lines 21-32; page 3, lines 3-5; and page 4, lines 17-19. Further support for new claim 29 can be found, *e.g.*, on page 12, lines 14-17. No new matter has been added.

Applicant wishes to extend his appreciation to the Examiner for her time and consideration during the telephone interview of April 21, 2003, with Allyson Hatton, an associate of the undersigned. The helpful comments and suggestions of the Examiner were considered and have been incorporated into the present response.

Applicant respectfully traverses the restriction requirement, and in particular, the requirement to elect a single "combination" of polymorphisms. The Examiner has applied a section of the MPEP (§803.04) as the basis for the restriction. A quote from this section of the MPEP cited by the Examiner refers to an example of "...C) a combination of DNA fragments, said combination containing at least thirty different DNA fragments..." As the Examiner correctly acknowledges, the claims in the instant application are not to isolated DNA fragments, but "to methods and products which utilize and comprise the DNA polymorphisms" (page 5 of the Restriction Requirement). Applicant objects to this application of MPEP §803.04 and maintains that because each of the claimed nucleotide polymorphisms is in the same gene, it

would not require undue burden to search the art for each individual polymorphism. In fact, MPEP §803.04, the same section to which the Examiner refers, states that “nucleotide sequences encoding the same protein are not considered to be independent and distinct inventions and will continue to be examined together.” Indeed, any gene containing any combination of the disclosed SNPs will still encode a human P2X7 protein. Applicant requests that the requirement be withdrawn, at least insofar as it requires election of a single polymorphism or single combination of polymorphisms.

Even if the restriction is allowed to stand, Applicant understands that a finding of allowability of the elected SNP will lead to the rejoinder and allowability of claims covering any combination of that SNP with others. The Examiner states on page 5 of the Office action, “Upon the finding of an allowable combination, combinations which comprise the allowable combination will also be rejoined and allowed.” Applicant understands this to mean that, upon allowance of a claim limited to the elected SNP, new claims 28-30 would be rejoined and allowed.